

REMARKS

A Notice of Allowance for this Application was mailed on May 7, 2003. Applicants subsequently filed a Request for Continued Examination (RCE) on May 16, 2003. The present office action was issued after the filing of the RCE. Claims 1 – 19 and 27 are pending in the application. Claims 1, 2, 10-13 and 17 have been amended herein. Claims 20-26 were previously cancelled. Claim 27 is added herein.

A supplemental information disclosure statement is being submitted along with this response. A prior supplemental IDS was submitted to the Patent Office on April 12, 2004. Acknowledgment of the review of the references cited is respectfully requested. If for any reason the submitted documents are not present in the file relevant to the application at the time of review of the present response, or if one or more copies of the identified references are no longer attached, please contact the undersigned by phone and replacement copies will be provided on an immediate basis.

It is respectfully submitted that the prior art of record (including the references identified in the various supplemental IDS documents submitted) does not suggest or disclose the packaging material defined by the pending claims. Therefore, it is requested that the outstanding rejections be withdrawn and a new Notice of Allowance issued.

ARGUMENTS

Claims 1-19 have been rejected as being obvious in view of the combination of Zhang '400, Kurth '005, and Dust '884 along with the abstract of the Japanese '531 publication or the disclosure in Edlein '127. It is argued that the Japanese publication teaches a "slip agent" within an electron beam cured coating environment. A similar position is taken with regard to Edlein. The examiner states that this "slip agent" is the missing element of the combination of Zhang, Kurth and Dust. The examiner states in the office action that the motivation to combine these multiple and varied references is merely that all relate to coated surfaces and/or packaging containing same.

It is respectfully submitted that the individual references do not suggest or disclose applicants specifically claimed combination. The proposed combination of references is merely an unrelated collection of individual publications. There is nothing in these references to specifically suggest their combination with each other or that the combination would likely work.

The mere fact that each of the references relate to packaging, is not enough to motivate one of skill in the art to make the combination of even two references, let alone four. There must be something more to the suggestion. Obviousness is not grocery shopping, where the shopper can merely pick and choose individual items and place them into a cart. There must be a recipe or rationalization for the combination that exists in advance. Being present in the same store is not sufficient.

As previously indicated fixed slip agents and the avoidance of slip agent migration would not necessarily be properties attained if the materials in Kurth, Zhang and Dust were to be combined. As explained previously in the Declaration of Mr. Huffer, slip agents that are commonly used in the packaging field are migratory. That is, common slip agents used in the packaging field are selected to be incompatible with the resins in which they are dispersed. This incompatibility causes the slip agents bloom to the surface and form a thin film, which imparts a desired coefficient of friction to the laminate.

Consider a film with an adhesive layer on the inside and an electron beam curable coating, which included migratory slip agents, on the outside. In a roll, the adhesive layer is in contact with the electron beam cured layer. The slip agents poison the adhesive layer and cause blocking. In addition, the concentration of slip agents likely form a haze, thereby adversely affecting gloss. Thus, the selection of the coating and slip agent is critical to making a viable product.

The present invention includes an energy-cured coating with slip agents that become fixed during cross-linking of the coating. The packaging material of the present invention further specifically includes a plastic substrate, a cold-seal cohesive coating on the inner surface of the substrate, and the energy-cured coating on the outer surface of the substrate. Once the material has been converted, it is stored in a roll, in which the cold seal cohesive is in contact with the energy-cured coating. Because the slip agent is fixed during the cross-linking of the coating, it does not bloom to the surface. Therefore, the slip agent does not poison the cold seal cohesive or cause blocking. The properties related to non-blocking and the appearance of the coating are unique to a coating with fixed slip agents and would not be expected if migratory slip agents, which are common in the converting field, were used in the coating.

Assuming arguendo that the Kurth, Zhang and/or Dust references can properly be combined, and further assuming that the Kurth coating can be properly modified to include slip

agents, it would not necessarily follow that the added slip agents would be fixed or reacted in. In fact, absent the disclosure of the present application, if one were motivated to include slip agents in the Kurth coating, one would likely include migratory slip agents. The coating of Kurth, if modified by the addition of slip agents and applied to the Zhang or Dust package, would not inherently include fixed slip agents. Therefore, the prior art cited in the Office Action does not exhibit or suggest the properties of the present invention and does not render obvious the specific combination in the independent claims.

Further, adding the Japanese reference (based upon its abstract alone) or Edlein is not suggested by Kurth, Zhang or Dust. The Japanese abstract merely describes the abrasion resistance properties of UV/EB coated films. There is insufficient details of the slip agent or the film to create a suggestion of the claimed combination. Further, the films in the Japanese reference includes a photo recording layer and, thus, precludes a suggestion of the use of an adhesive.

Edlein admittedly includes a slip agent which is non-migratory in application with EB cured coatings. However, there is no suggestion of the combination of Edlein with the specific use of cold seal adhesives. It is the selection of these specific materials and their advantages within the combination that creates an inventive step. Without a suggestion in the references to make this specific combination, the claims were not obvious.

The claims have been amended above merely for clarification purposes. It is respectfully submitted that these claims, as amended, are patentably distinct over the references being applied by the present action. Withdrawal of the current rejection and a notice of allowance are solicited.

If direct communication will expedite the renewed allowance of the application, the Examiner is invited to telephone the undersigned attorney.

Respectfully submitted,

SCOTT W. HUFFER, *ET AL.*

BY:

A handwritten signature in black ink, appearing to read 'T. Durling', written over a horizontal line.

Thomas J. Durling

Reg. No. 31,349

DRINKER BIDDLE & REATH LLP

One Logan Square

18th & Cherry Sts.

Philadelphia PA 19103

Phone: (215) 988-3307

Fax: (215) 988-2575

Attorney for Applicants